

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ESMELING L. BAHENA,

Plaintiff,

v.

LEMON, *et al.*,

Defendants.

Case No. 1:22-cv-01585-BAM (PC)

ORDER VACATING ORDER DIRECTING
DEFENDANT TO FILE RESPONSE TO
PLAINTIFF'S MOTION FOR EXTENSION
OF TIME
(ECF No. 44)

ORDER DENYING PLAINTIFF'S MOTION
FOR EXTENSION OF TIME AS MOOT
(ECF No. 43)

Plaintiff Esmeling L. Bahena ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's second amended complaint against Defendant Mendoza for excessive force and deliberate indifference to medical care in violation of the Eighth Amendment. All parties have consented to Magistrate Judge jurisdiction. (ECF No. 40.) This case is currently set for a video settlement conference before Magistrate Judge Stanley A. Boone on November 17, 2023 at 10:00 a.m.

On October 24, 2023, Plaintiff filed a motion for a 90-day extension of time, which the Court construed as a request for additional time to file a response to Defendant's answer and a request for additional time to prepare a settlement conference statement. (ECF Nos. 43, 44.) The Court denied the request for extension of time to file a response to Defendant's answer, but

1 directed Defendant to file a response within seven days regarding the remaining allegations in
2 Plaintiff's motion. (ECF No. 44.)

3 On October 30, 2023, Plaintiff filed a settlement conference statement. (ECF No. 45.)
4 Accordingly, the Court finds that the motion for extension of time is now moot. The Court
5 further finds that a response from Defendant to Plaintiff's motion is now unnecessary.

6 Based on the foregoing, IT IS HEREBY ORDERED as follows:

- 7 1. Plaintiff's motion for extension of time, (ECF No. 43), is DENIED as moot;
- 8 2. The October 25, 2023 order directing Defendant to file a response to Plaintiff's motion for
9 extension of time, (ECF No. 44), is VACATED and Defendant is relieved of the
10 obligation to file a response to the motion; and
- 11 3. This action remains set for a video settlement conference on November 17, 2023 at 10:00
12 a.m. before Magistrate Judge Stanley A. Boone.

13
14 IT IS SO ORDERED.

15 Dated: October 31, 2023

16 /s/ Barbara A. McAuliffe
17 UNITED STATES MAGISTRATE JUDGE
18
19
20
21
22
23
24
25
26
27
28